

AUG 21 2006

Application No.: 10/612,035

Docket No.: 30412/30002A

REMARKS/ARGUMENTS

Claims 1-64 were pending. By this amendment, independent claims 1, 13, 24, 31, 42, 45, 48, and 59 are amended to more precisely define the invention in light of the examiner's interpretation of "connection structure." Dependent claim amendments are made for consistency in terminology due to the amendments to the independent claims. Claims 3, 8, 29, 32, and 33 are canceled. Support for the amendments may be found in the specification and claims as originally filed. Thus, no new matter is added. As a result of this amendment, claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 are pending and at issue.

The proposed amendments to independent claims 1, 13, 24, 31, 42, 45, 48, and 59 were not made earlier because it has only now become apparent to the applicants that the Patent Office gives no weight to the term "connection structure." The foregoing amendments specifically address the apparent confusion over the term "connection structure." Because the nature of the rejections has only now become clearly understood, there is good and sufficient reason for not presenting these amendments earlier. Furthermore, the applicants respectfully submit that the foregoing amendments place the claims in condition for allowance. Accordingly, the applicants respectfully request entry of the foregoing amendments in accordance with 37 CFR 1.116 (b)(3).

Claim Objections

The applicants respectfully traverse the objection to claim 37. By this amendment, claim 37 no longer recites a second "surface." As a result, the claim language is now clear and the applicants respectfully request withdrawal of the objection to claim 37.

35 U.S.C. § 102 and § 103 Rejections

The applicants respectfully request withdrawal of the rejection of claims 3, 8, 29, 32, and 33 because these claims are canceled by this amendment.

The applicants respectfully traverse the rejection of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 as anticipated by any of, or as obvious over any combination of, U.S. Patent No. 5,063,679 to Schwandt ("Schwandt"); U.S. Patent No. 5,575,073 to Von Wedemayer ("Von Wedemayer"); U.S. Patent No. 6,481,686 to Jan ("Jan"); U.S. Patent No. 6,810,598 to Boys ("Boys"); U.S. Patent No. 5,531,031 to Green ("Green"); U.S. Patent No. 5,516,581 to

Kreckel ("Kreckel"); U.S. Patent No. 6,502,319 to Goodrich et al. ("Goodrich"); U.S. Patent No. 1,657,546 to Patton ("Patton"); and U.S. Patent No. 4,663,856 to Hall et al. ("Hall"), collectively the "cited art." Each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 recites *inter alia*, a base for a light generating device, the base including a "first portion having a planar surface, a concave recess in the planar surface, and a second portion having a nonmechanical attachment structure opposite the first portion" The cited art fails to disclose or suggest this limitation.

While Schwandt discloses a bubble level having a mounting portion 32 and a securing portion 30 (col. 4, lines 58-62), the securing portion 30 does not have a concave recess in a planar portion. See Fig. 3 of Schwandt. Moreover, the mounting portion 30 of the Schwandt device, while including a cylindrical recess 52 (col. 4, line 65 and Fig. 3), also includes an adhesive 63 (col. 5, line 38). Thus, the mounting portion 30 cannot be considered the first portion because the claims recite the "second portion having a nonmechanical attachment structure." As a result, Schwandt cannot disclose or suggest a first portion having a planar surface and a concave recess in the planar surface, and a second portion having a nonmechanical attachment structure opposite the first portion, as is recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. Therefore, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Schwandt.

While Von Wedemayer discloses a leveling device for a spirit level, Von Wedemayer fails to disclose a first portion having a planar surface, a concave recess in the planar surface, and a second portion having a nonmechanical attachment structure opposite the first portion. The leveling device of Von Wedemayer includes an upper plate 1 made of ferromagnetic material wherein the top surface 8 of the upper plate is ground absolutely planar (col. 3, lines 15-17). Thus, if the upper plate is considered the first portion, then the top surface 8 must be considered the planar surface. However, the top surface 8 does not include a concave recess of any sort.

Additionally, the applicants respectfully disagree with the examiner's contention that the lower plate 2 of Von Wedemayer includes a non-mechanical attachment structure. Specifically, the feet 6 which are identified as the nonmechanical attachment structure do not attach the Von Wedemayer device to a surface. The feet 6 merely allow the Von Wedemayer

device to be "deposited on an underlying surface." See Von Wedemayer, col. 3, lines 13-14. The applicants respectfully submit that merely resting on (or being deposited on) a surface is not the same as "attaching" to the surface. To "attach" means to "fasten, secure or join." The American Heritage Dictionary of the English Language, Fourth Edition Copyright © 2000 by Houghton Mifflin Company. A flat surface, absent any other features, cannot "secure" itself to another surface. As a result, the bottom of plate 2 cannot be an attachment structure of any sort, let alone a nonmechanical attachment structure because the flat surface itself cannot secure anything. Further, Von Wedemayer teaches away from a nonmechanical attachment structure because the lower plate 2 includes a stand thread 7 for attaching the lower plate to a stand. See Von Wedemayer col. 3, lines 11-12. The stand thread 7 is a mechanical attachment structure. Thus, Von Wedemayer fails to disclose or suggest either a first portion having a planar surface and a concave recess or a second portion having a nonmechanical attachment structure, both elements being recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. As a result, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 can be anticipated by or rendered obvious over Von Wedemayer.

While Jan discloses a turntable for a leveling device that includes a pedestal 10, a limb 20, a level adjustment means 30, and a turn member 40 (col. 2, lines 10-16), Jan does not disclose or suggest a first portion having a planar surface, a concave recess in the planar surface, and a second portion having a nonmechanical attachment structure opposite the first portion. The Office Action alleges that the limb 20 is a surface and the turn member 40 is a connection structure that composes a surface (Office Action, page 6). However, the applicants note that the Office Action fails to identify any particular surface on the limb 20 as the claimed surface and that the limb 20 includes several different and distinct surfaces (See Fig. 2), none of which is planar surface that includes a concave recess.

Moreover, the applicants respectfully disagree with the examiner's contention that the bottom of the pedestal 10 is a nonmechanical attachment structure. Like Von Wedemayer above, the bottom surface of the pedestal 10, by itself does not secure the Jan device to anything, and thus cannot be an attachment structure of any sort, let alone a nonmechanical attachment structure. See the definition of "attach" above. To the contrary, Jan teaches away from using a nonmechanical attachment structure because Jan teaches attaching the pedestal

10 to a tripod using screw bores 11. See Jan, col. 2, lines 14-15 and Fig. 3. Thus, Jan teaches using mechanical screw bores to attach the pedestal to a tripod, not a nonmechanical attachment structure. As a result, Jan fails to disclose or suggest either a first portion having a planar surface and a concave recess or a second portion having a nonmechanical attachment structure, both elements being recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. Thus, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Jan.

While Boys discloses a template system including a stud finder and a system of interconnected extensions which form the template, Boys fails to disclose or suggest a first portion having a planar surface, a concave recess in the planar surface, and a second portion having a nonmechanical attachment structure. In fact, the Boys device does not have a planar surface of any sort that includes a concave recess. Furthermore, the applicants respectfully disagree with the examiner's contention that a surface is a nonmechanical attachment structure. Specifically, the Official Action identifies the bottom of 605b as the nonmechanical attachment structure. See the Official Action, page 8. However, each of the guide rails 605 of Boys attaches to the rotating elements 560, not to walls. See col. 15, lines 58-59. Thus, the bottom surfaces of the guide rails 605 merely rest on the walls between the modules 506, 507. The guide rails do not secure to the walls in any manner. The applicants respectfully submit that merely resting on (or being disposed on) a surface is not the same as being "attached" to the surface. See the definition of "attach" above. Thus, Boys fails to disclose or suggest either a first portion having a planar surface and a concave recess or a second portion having a nonmechanical attachment structure, both elements being recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. Thus, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Boys.

Kreckel has not been cited as having first or second portions, let alone a first portion including a planar surface and a concave recess within the planar surface, and Kreckel does not disclose such features. Kreckel only discloses a removable adhesive tape. Therefore, Kreckel cannot disclose or suggest either a first portion having a planar surface and a concave recess or a second portion having a nonmechanical attachment structure, both elements being recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. Thus, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Kreckel.

While Green discloses a laser assembly and a square, wherein the laser assembly is rotatably mounted in the square, Green fails to disclose or suggest a first portion having a planar surface, a concave recess in the planar surface, and a second portion having a nonmechanical attachment structure opposite the first portion. Even if the movable laser housing 44 were considered to be the first portion (See Green, col. 4, lines 3-5 and Fig. 7), the laser housing 44 does not have a planar surface, let alone a concave recess in a planar surface. Thus, Green fails to disclose or suggest a first portion having a planar surface and a concave recess as is recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. As a result, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Green.

Goodrich was not cited as having a first or a second portion, let alone a first portion including a planar surface and a concave recess within the planar surface, and Goodrich does not disclose such features. Goodrich discloses a laser diode 2 and lens 6, 8, 10 for producing a line of light on a surface. Even if the bracket 56 (see Fig. 12 of Goodrich) was considered a base, there is no surface on the bracket 56 that includes concave recess of any sort. Furthermore, Goodrich fails to disclose or suggest a nonmechanical attachment structure of any sort. Therefore, Goodrich cannot disclose or suggest either a first portion having a planar surface and a concave recess or a second portion having a nonmechanical attachment structure, both elements being recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. As a result, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Goodrich.

Patton was not cited as having a first portion including a planar surface and a concave recess and a second portion having a nonmechanical attachment structure, and Patton does not disclose such features. Patton discloses an adjustable level and plumb device that includes a plate 16 and an oblong frame 20 that holds a glass bulb 27 (page 1, lines 65-105). The plate 16 and frame 20 interact so as to allow the frame 20 to rotate relative to the plate 16. However, neither the plate 16 nor the frame 20 includes a planar surface having a concave recess in the planar surface, or a nonmechanical attachment structure as is recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. As a result, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Patton.

Hall was not cited as having a first portion including a planar surface and a concave recess and a second portion having a nonmechanical attachment structure, and Hall does not disclose such features. While Hall discloses a leveling/plumbing device, the leveling/plumbing device does not include a first portion having a planar surface and a concave recess and a second portion having a nonmechanical attachment structure. Even if the body 16 of Hall was considered to be the first portion, there is no planar surface on the body 16, let alone a planar surface having a concave recess. See Fig. 5 of Hall. Therefore, Hall cannot disclose or suggest a planar surface and a concave recess as is recited by each of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64. As a result, none of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 is anticipated by or obvious over Hall.

As shown above, none of the cited art, alone or in combination, discloses or suggests a first portion having a planar surface, a concave recess in the planar surface, and a second portion having a nonmechanical attachment structure, as is recited in each of the pending claims. Thus, none of the pending claims can be anticipated by any of the cited art or rendered obvious by any combination thereof. Accordingly, the applicants respectfully request withdrawal of the rejection of the pending claims.

RECEIVED
CENTRAL FAX CENTER

Application No.: 10/612,035

AUG 21 2006

Docket No.: 30412/30002A

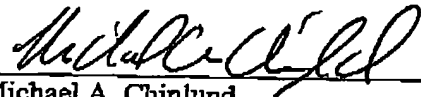
Conclusion

In light of the foregoing arguments, the applicants respectfully request reconsideration and allowance of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64.

If there are matters that can be discussed by telephone to further the prosecution of this application, the applicants respectfully request that the Examiner call its attorney at the number listed below. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith.

Respectfully submitted,

By:


Michael A. Chinlund
Registration No. 55,064
MARSHALL, GERSTEIN & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6402
312-474-6300

August 21, 2006